



## FREEDOM COURT REPORTING

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1 APPEARANCES

2 ON BEHALF OF PLAINTIFFS:

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6 ON BEHALF OF DEFENDANTS:

7 PAULO B. MCKEEBY, Esquire  
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12

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15

16 DEPOSITION OF TITUS J. BRITT, a witness

17 called on behalf of Defendants, before Alicia S.

18 Clement, Registered Professional Reporter and Notary

19 Public, in and for the State of North Carolina, at

20 the Offices of Ogletree, Deakins, Nash, Smoak &

21 Stewart, PC, 2725 Horse Pen Creek Road, Suite 101,

22 Greensboro, North Carolina, on Wednesday, July 28,

23 2010, commencing at 9:27 a.m.

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1 thing?

2 A. Correct.

3 Q. Now, you might have had to use PTO. And  
4 I -- I know you've told me about that.

5 A. Right. Okay.

6 Q. So I'm not saying that you didn't lose  
7 something. But in terms of just what your paycheck  
8 said, your paycheck said the same thing every week?

9 A. Correct.

10 Q. What did you get it? Biweekly (sic)?

11 A. I think they were twice a month, yeah.  
12 Certain two days.

13 Q. Okay. And so those -- at least with  
14 respect to the salary component of your  
15 compensation, it was the same?

16 A. Yes.

17 Q. Okay. Did you also communicate with  
18 Ms. DeLaney about working more than 40 hours in a  
19 week?

20 A. Could you provide more insight to -- what  
21 do you mean by that?

22 Q. Yeah. You've told me so far that the  
23 communications that you've had with Sharon DeLaney

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1 related to whether or not you would be paid for time  
2 over 40 hours billed to the customer. And you've  
3 told me about this PTO issue. And you had  
4 discussions, as I understood it, with Sharon DeLaney  
5 about those issues, correct?

6 A. Correct.

7 Q. What about just the notion of you working  
8 more than 40 hours? Is that something that -- did  
9 you ever complain to her about that or raise that as  
10 an issue and say, "Hey, I thought I signed up for a  
11 job that was only 40 hours a week"?

12 A. Yes.

13 Q. All right. And you did that in telephone  
14 calls and meetings?

15 A. Could be -- yeah, telephone call -- yeah.  
16 We're on the road a lot, so it -- probably it was  
17 more either telephone call or e-mail.

18 MS. BAGLEY: Paulo, can we take a  
19 quick break?

20 MR. MCKEEBY: Yes.

21 (SHORT BREAK TAKEN FROM 10:29 A.M. TO 10:36 A.M.)

22 (EXHIBIT NUMBER 3 WAS MARKED FOR IDENTIFICATION)

23 ///

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1 BY MR. MCKEEBY:

2 Q. All right. Let me hand you a document  
3 that I'll mark as Exhibit 3 and ask you, first of  
4 all, that appears to be an e-mail exchange between  
5 you and Ms. DeLaney?

6 A. All right. I got it.

7 Q. Do you -- do you -- after reviewing this,  
8 do you recall this exchange?

9 A. Yes.

10 Q. Let's start with the first e-mail from you  
11 to Ms. DeLaney on the second page of the document  
12 that's marked as Exhibit 3 that's dated Friday,  
13 June -- July 18th.

14 A. Okay.

15 Q. And it's your request that you would like  
16 to take August 25th as the 4th of July holiday  
17 and August 28th as July 26, 2008.

18 A. Correct.

19 Q. What did that mean?

20 A. If I remember correctly, these were days I  
21 had traveled on the weekends and -- and worked on a  
22 holiday.

23 Q. So you -- you worked on the 4th of July?

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1 "go live."

2 Q. Is there any training that occurs before  
3 the "go live"?

4 A. It all depends. Sometime the training  
5 occurred after the "go live" because you're training  
6 them on their actual software or the training would  
7 occur -- could occur before the "go live."

8 Q. So sometimes you -- you didn't perform any  
9 training prior to "go live"?

10 A. Well, I mean -- so what "go live" -- and  
11 let me -- I guess it's not "go live." It's more  
12 when the software's installed into their production  
13 environment. That's where the -- the actual "go  
14 live" is after they've been trained.

15 Q. So it's software installed in the  
16 production environment?

17 A. Right. And then the training would begin.

18 Q. And that's prior to going live?

19 A. Right, that's prior to going.

20 Q. Just so that we have a working definition  
21 between you and me, "go live" --

22 A. Is --

23 Q. -- means what?

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1           A.    When they are actually switching from the  
2   old system to the new system.

3           Q.    Okay.  So the software's been installed.  
4   And I take it there's someone else that actually  
5   installs the software?

6           A.    Yeah.

7           Q.    And that occurs after it's been  
8   configured?

9           A.    Or could be.

10          Q.    Okay.

11          A.    Yeah.  The --

12          Q.    Who -- who installs the software?

13          A.    I don't know.  Some other department.  I  
14   can't -- I don't know if they call it implementation  
15   or ...

16          Q.    Conversion?

17          A.    No.  Conversion, they just did data  
18   conversion.  So it could have been the IT  
19   department, actually, that did the installs.

20          Q.    And by "data conversion," you're meaning  
21   taking the information that's in the customer's  
22   legacy system, the data, and putting it into  
23   Tyler's --

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1 A. Correct.

2 Q. That's something that a data conversion  
3 department did?

4 A. Correct.

5 Q. Not that implementation consultant?

6 A. No.

7 Q. Okay. So let's talk about the -- the  
8 training. Who -- who -- you were training end users  
9 or someone else?

10 A. Trained whoever they deemed required the  
11 training for the new software. The customer  
12 determined that.

13 Q. Okay. So this, I take it, involves  
14 a -- would involve a separate week's trip to the  
15 customer location?

16 A. Yes.

17 Q. And -- okay. So, if I'm understanding you  
18 correctly, the -- you've had your initial consulting  
19 phase. The -- obviously, the data has been  
20 converted at that point and you've done your  
21 configuration work and so you're ready to commence  
22 training. How -- and -- and I take it the schedule  
23 tells you when you're supposed to commence training?

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1 A. Right.

2 Q. Does the schedule tell you -- and you know  
3 you're doing utility billing training --

4 A. Right.

5 Q. -- on that software application?

6 A. Right.

7 Q. Does it tell you -- well, let me ask you  
8 this: Were there different aspects of the utility  
9 billing software that you had to train on in the  
10 sense of -- you know, was it just one training  
11 program that you were doing repeatedly for clients  
12 or were there different types of training that you  
13 provided?

14 A. Different types based on what options they  
15 selected to use.

16 Q. Okay.

17 A. Utilize.

18 Q. And you knew those options based on the  
19 work that you had done previously with respect to  
20 the initial phases of the implementation?

21 A. Yes.

22 Q. And you would also know it based on the  
23 configuration work that you did as well?

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1 A. Yes.

2 Q. So in terms of the training that you  
3 provided, was there, like, a schedule or agenda set  
4 up then between you and the customer?

5 A. Right. So we -- we had standard agendas  
6 that we -- everybody used based on the previous  
7 information we talked about.

8 Q. Standard agendas based on the types of  
9 options that the customer would have selected?

10 A. Correct.

11 Q. Well, didn't you have to modify those  
12 agendas based on the customer preferences?

13 A. Some. So the -- the standard -- you know,  
14 there are different modules within utility billing.  
15 So if they have this module, here's what you should  
16 cover. So there were high-level categories.

17 Q. What about with respect to scheduling the  
18 actual training? Is that something that you would  
19 coordinate with the customer?

20 A. No. That's the PM.

21 Q. Project manager would do that?

22 A. Yes.

23 Q. So before you leave for your trip in which

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1     you're doing training, did you know what -- you  
2     know, where you were supposed to be and when?

3             A.     Yes.

4             Q.     And what would tell you that? What  
5     document would tell you that?

6             A.     Just -- I don't know if we had a document.  
7     I don't think there ever -- some -- we got the  
8     information from the PM. I'm not sure if it's off  
9     the project schedule or if there was something  
10    separate that they sent us. I'm sure there's --  
11    there's something -- there's some document that they  
12    provided us that told us when the training start --  
13    what time we're supposed to be there and -- and the  
14    number of days.

15            Q.     But you don't remember any document like  
16    that?

17            A.     No. I'm -- there was a document. But I  
18    can't tell you if it had a name or if it was -- or  
19    if it's something that they sent in a Word file and  
20    attached to -- in an e-mail to us. But it -- we did  
21    get that information from project management.

22            Q.     Does the term "agenda template" mean  
23    anything to you?

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1           Q.   How -- how long a document are we talking  
2   about in the agenda template?

3           A.   All depends on how many days.  So if it's  
4   three or four days, could be one or two pages.

5           Q.   Okay.  And does the agenda template --  
6   it -- I'm thinking of -- "agenda" could mean two  
7   things.  It could mean agenda in the sense of, okay,  
8   from a schedule, like from 12 to 2, here's when I'm  
9   going to be training on this topic; or the agenda  
10   might mean here's how I'm going to do particular  
11   training in terms of the type -- the substance of  
12   the training.  When you use the term "agenda  
13   template," do either of those descriptions that I  
14   gave fit?

15          A.   The first one.  The agenda -- first --  
16   because they needed to bring in certain people at  
17   different times.

18          Q.   I see.

19          A.   So we would try to guess how long it's  
20   going to take to --

21          Q.   I see.  So the agenda templates relates  
22   more to the scheduling?

23          A.   Right.

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1 Q. So your -- your -- in the agenda -- let me  
2 make sure I have this right. You know the different  
3 modules that the customer has selected?

4 A. Correct.

5 Q. And you base the agenda on those modules?

6 A. Yes.

7 Q. And create an agenda template which you  
8 submit to the project manager?

9 A. Which that -- which is a generic one that  
10 we already have and just got to move it around as  
11 a ...

12 Q. Okay. And you provided that to the  
13 project manager?

14 A. Yes.

15 Q. And then when you're training, are you  
16 training the end users or someone else or both?

17 A. Again, it's a customer's decision who is  
18 in the training. So we train whoever they provide.

19 Q. And how do you do the -- the training? Do  
20 you do it -- is it like a PowerPoint presentation  
21 that you -- that you prepare or do you -- are you  
22 training on the actual system?

23 A. We're training -- we -- we use manuals

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1 that we're provided and then, also, we're displaying  
2 their software and going through it.

3 Q. Displaying the software on a projection  
4 screen?

5 A. Right.

6 Q. And going through different programs and  
7 options for the people that are in the class?

8 A. Based on the agenda, yeah, and -- and  
9 according to the instructions that are in our  
10 manuals.

11 Q. And do the people at the meetings have  
12 laptops themselves that they're going off of or --

13 A. Sometimes. Sometimes they have -- they're  
14 in a training room and they have computers. At  
15 other times, they're just looking at what we have.

16 Q. When you were at Tyler, did you ever see a  
17 job description for your position?

18 A. Yes. I'm sure. Yes.

19 Q. All right. Then did you have any  
20 responsibilities to document the training in the  
21 sense of providing the project manager or someone  
22 else with an assessment of how the training had  
23 gone?

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1           A.    We -- it would all depend on the client.

2       Sometimes we would have calls with the project  
3       manager a couple days later or daily.   Some PMs  
4       wanted us to e-mail them every day after the  
5       training and say how we thought things were going.

6           Q.    And what kind of things would you tell the  
7       project managers in terms of either via e-mail or  
8       orally?   And is that, like, just how things were  
9       going in terms of how well the clients were taking  
10      to the training? how long it was taking? those kinds  
11      of things?

12          A.    Right.   And if we're -- if we feel like  
13      we're on target.

14          Q.    "On target" meaning can you complete the  
15      training by a particular date?

16          A.    Right.   Yeah.   Today we accomplished  
17      everything that was on the agenda or we did --  
18      weren't able to.

19          Q.    And the target was something of which you  
20      were aware, I take it?

21          A.    In the beginning, yeah.

22          Q.    And by "target," you mean a particular  
23      date when the training is supposed to be completed?

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1 A. Right.

2 Q. And reasons you might be off of target is  
3 because the training was taking too long because the  
4 customer representatives weren't picking it up  
5 quickly enough or something along those lines?

6 A. A lot of questions, software not working  
7 when you're showing it to them, then at which --  
8 sometimes you have to stop and then call back and  
9 get somebody to do something, so ...

10 Q. Okay. And what would be done if you were  
11 not able to make target?

12 A. Then the PM worked to probably extend it  
13 or cut something or reschedule sometimes.

14 Q. So the PM would coordinate with the  
15 customer on that?

16 A. Correct.

17 Q. Were you ever involved in those  
18 discussions?

19 A. Sometimes. If they -- if the customer  
20 called, we're -- called in right there and the  
21 customer's there, we'd talk and say, "The customer  
22 agrees we need, you know, another week. Can you fit  
23 it in the schedule"? something, or --

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1 Q. Right. So then you would convey that to  
2 the project manager?

3 A. Yeah. We would all probably do -- I've  
4 never probably done it by myself. The customer's  
5 always been involved in it.

6 Q. But sometimes the customer would discuss  
7 it with you prior to there being any involvement on  
8 the project manager side?

9 A. Correct.

10 Q. All right. And then, let's say, the  
11 training is done and it's done on target. Is the  
12 next step the support that you provided during the  
13 "go live" process?

14 A. Correct.

15 Q. And I take it that's -- would typically be  
16 a separate trip to the customer?

17 A. Yeah. Could be the following Monday, but  
18 may have been a couple of weeks later.

19 Q. Okay. So how did you describe "go live"?  
20 That's when you're flipping the -- tell me again.

21 A. So for us go -- "go live" was someone back  
22 in EDEN flipping the switch, saying that we're  
23 ready -- that, you know, now we can start billing

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1 out of the -- the new system. And then you're --  
2 you're really there for troubleshooting to -- and  
3 there's a certain process outlined that we're  
4 supposed to -- things we're supposed to check. So  
5 we start checking those things to make sure they  
6 work.

7 Q. Now, when you're doing -- let me jump back  
8 to the training. When you're doing the training,  
9 are you -- is there anybody else from Tyler that's  
10 with you?

11 A. I'm trying to think.

12 Q. What would be typical?

13 A. No. It's generally just --

14 Q. Just the implementation consultant?

15 A. Unless somebody's shadowing on -- unless  
16 you were shadowing somebody or whatever, the  
17 opposite. But, no.

18 Q. Or someone was shadowing you?

19 A. Correct.

20 Q. Did anyone ever shadow you?

21 A. I was thinking. Actually, yeah, I did  
22 have someone one time.

23 Q. Do you remember where that was?

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1 A. I want to say in Maryland.

2 Q. The -- what about during the "go live"  
3 support where you're doing system troubleshooting?  
4 Is there anyone else from Tyler on the premises?

5 A. No.

6 MS. BAGLEY: Object to form.

7 BY MR. MCKEEBY:

8 Q. And so are you -- do you have particular  
9 assigned tasks during this "go live" support or are  
10 you just kind of there to provide the support as --  
11 on an as-needed basis?

12 A. No. We have a -- an agenda of things that  
13 need to be accomplished to ensure that the customer  
14 is -- the system's working properly. And there's  
15 stages in it.

16 Q. And is that an agenda that someone drafts?

17 A. Yes. That's, again, a template for "go  
18 live" for utility billing.

19 Q. So, then, different -- these different  
20 stages needed to be scheduled within the week in  
21 which you're providing "go live" support?

22 A. Yes.

23 Q. And is that something you do in

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1 consultation with the customer?

2 A. The PM schedules that.

3 Q. Okay.

4 A. Because it coordinates with people in the  
5 office, so ...

6 Q. So what do you -- what do you do when  
7 you're on site as the implementation consultant?

8 A. So, if I can remember correctly, let's say  
9 we're -- we're starting off with meter reads. So  
10 they've converted the meter reads. Then we go in  
11 and generate reads and see if they have the  
12 correct -- and run reports and check that off. And  
13 then you go to the next stage. And the ultimate  
14 stage is to generate a billing that doesn't have a  
15 million-dollar bill in it.

16 Q. That doesn't have a what?

17 A. A million-dollar bill.

18 Q. Why? I don't understand.

19 A. That's the -- the -- in utility billing,  
20 if everything's done right, then the bill should  
21 come out correctly. But there's always like -- like  
22 a thousand -- you know, elaborate bill that comes  
23 out which means something's wrong.

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1 Q. So you have to go in and fix that?

2 A. Yeah.

3 MS. BAGLEY: Form.

4 BY MR. MCKEEBY:

5 Q. How -- how do you -- how do you address  
6 that?

7 A. Call back to the office to figure out what  
8 they did wrong.

9 Q. Who would you call back at the office?

10 A. Depending on what department was in  
11 data -- sometime it could be data conversion. You'd  
12 start with the PM and figure out where it needs to  
13 go.

14 Q. How long would you typically provide the  
15 "go live" support that you've mentioned?

16 A. "Go live," again, could be from one week  
17 to two weeks.

18 Q. Was there ever an example where you spent  
19 the weekend at the location where the client was --

20 A. Yes.

21 Q. -- as opposed to returning home?

22 A. Yeah.

23 Q. Is that in Park Cities (sic) or ...

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1 A. Inglewood was one.

2 Q. Uh-huh. Park Cities (sic), no, though?

3 A. Park City, no.

4 Q. All right. So as an implementation  
5 consultant, after this "go live" period, be it --  
6 you said it was one to two weeks. After that one to  
7 two weeks, whichever one it happened to be, expires,  
8 do you have any additional responsibilities with  
9 respect to that customer?

10 A. After they're live, what do we do after  
11 that? It's kind of hard for me, you know, because  
12 I'm doing customer service now. So I know what we  
13 do now which is not the same.

14 Q. Right.

15 A. So I -- actually, I don't think we  
16 know -- after they "go live," we're -- they're done  
17 with us and then somebody else is involved.

18 Q. Right. So if they have day-to-day  
19 questions, they go to the support team?

20 A. Yeah. They contact some -- someplace  
21 else.

22 Q. I mean, is it true that -- I mean, at that  
23 point you would have been onto doing additional

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1 implementation work for another customer?

2 A. Correct.

3 Q. Did you ever get calls from customers  
4 saying, "Hey, you know, you did this implementation  
5 last week or two weeks ago and we've gone live and I  
6 have these kinds of questions"?

7 A. Then we send them to the PM.

8 Q. To the project manager?

9 A. Yes.

10 Q. Because you were working on a different  
11 project at that point?

12 A. Yeah. And -- and, plus, we were no  
13 longer -- we're --

14 MS. BAGLEY: Form.

15 THE WITNESS: -- technically done  
16 with them, so ...

17 MR. MCKEEBY: Okay.

18 THE WITNESS: Whether we were working  
19 on something or not, we're done with them.

20 BY MR. MCKEEBY:

21 Q. Mentioned the résumé that you submitted at  
22 the beginning of your employment with Tyler. And I  
23 didn't mark that as an exhibit. Does this look like

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**EXHIBIT 22**



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1 the résumé (indicating)?

2 A. Yeah.

3 Q. And you submitted that in an -- in an  
4 e-mail form to Ms. Shaw?

5 A. Submitted on the portal. So I don't know  
6 who -- how it ended up, but ...

7 Q. I'm going to mark this as a deposition  
8 exhibit, Number 8.

9 (EXHIBIT NUMBER 8 WAS MARKED FOR IDENTIFICATION)

10 BY MR. MCKEEBY:

11 Q. I'm just going to go over your educational  
12 background. What's your highest level of education?

13 A. I attended college, but I don't have a  
14 degree.

15 Q. You do not have a degree?

16 A. No.

17 Q. And at the end of the document are the  
18 list of colleges that you've attended?

19 A. Yeah.

20 Q. Is that the same today?

21 A. Yes.

22 Q. Have you updated your résumé since you  
23 were employed by Tyler?

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**EXHIBIT 22**

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1 consulting --

2 A. Yes.

3 Q. -- project?

4 A. Yeah.

5 Q. Why was it that you only billed the 60.75  
6 as opposed to the full amount?

7 A. Probably it's stuff that I could justify  
8 that would -- the client would approve. But there's  
9 other stuff that I had to do to get to that point,  
10 so ...

11 Q. So this wasn't a set number that  
12 Ms. DeLaney gave you?

13 A. No.

14 Q. This was based on your understanding of  
15 what you could bill and what you couldn't bill?

16 A. Right, what category it could fall into.

17 Q. Did you discuss that in this instance with  
18 Ms. DeLaney or did you just --

19 A. We -- we had that discussion earlier.

20 Q. Earlier being what?

21 A. I mean, earlier when I was told that I  
22 need to get approval to bill the extra hours.

23 Q. So how many weeks --

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1           A.   Well, I could -- what I would probably  
2   say, this is probably hours that I actually was at  
3   the site that I billed, so the -- the consultant  
4   could justify that I was there. And then if  
5   something happened that day and I was going back to  
6   my room to work on it and he agreed that I should  
7   work on it, then those hours are also included in  
8   there.

9           Q.   Included in the 60.75?

10          A.   Right.

11          Q.   What's not included in the 60.75?

12          A.   The stuff that they wouldn't allow me to  
13   bill.

14          Q.   "They" being Tyler?

15          A.   Tyler.

16          Q.   Or "they" being the customer?

17          A.   Both.

18          Q.   And what -- when you say stuff that they  
19   wouldn't allow you to bill, what stuff are you  
20   talking about?

21          A.   Studying more about the customer site or  
22   reviewing stuff that happened that day, doing my  
23   notes --

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1 Q. And --

2 A. -- entering time, all kinds of other  
3 things that would -- you would normally do.

4 Q. And was there any document that you were  
5 given that told you which of those particular  
6 assignments you could bill to the client versus  
7 which ones you couldn't bill to the client?

8 A. Any document. I think the -- I think the  
9 general rule was eight hours on site you could bill  
10 to the client and anything after that the client had  
11 to approve.

12 Q. Right. But I'm talking about this  
13 instance in which you billed 60.75 hours in a week  
14 to this client. There was, obviously -- you're  
15 telling me that that wasn't the total number of  
16 hours that you worked that week.

17 A. Right.

18 Q. And my question is -- that you answered --  
19 is that there's some --

20 A. There's probably --

21 Q. -- some -- let me finish.

22 A. Okay.

23 Q. There's some functions or some services

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1 that you provided that you didn't bill for?

2 A. Correct.

3 Q. So my only question is -- is that, is  
4 there a document that I can look at that you saw  
5 during your employment with Tyler that tells you:  
6 You can bill for these functions --

7 A. No.

8 Q. -- but you can't bill for these functions?

9 A. No.

10 Q. And some of the functions that you  
11 described, your time and other things, they -- that  
12 could be done at the customer site, correct?

13 A. No.

14 Q. Why not?

15 A. Because at the customer site you're  
16 training and you're doing -- you're -- they have a  
17 classroom with people there and you're working with  
18 them.

19 Q. All right. I think you mentioned -- I'm  
20 going to mark this as Exhibit 6.

21 A. Oh, okay.

22 (EXHIBIT NUMBER 6 WAS MARKED FOR IDENTIFICATION)

23 ///